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FISCAL IMPACT REPORT

SPONSOR: SCORC DATE TYPED: 03/08/03 HB _____
 SHORT TITLE: Public Peace, Health, Safety & Welfare SB CS/903/aSFI#1/aHJC
 ANALYST: Valenzuela

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

- *Report of the Legislative Finance Committee to the Forty-sixth Legislature, First Session, January 2003 for Fiscal Year 2003 – 2004, pp. 390 – 401.*
- *Report to the Legislative Council from the Public Regulation Commission Subcommittee, in response to SENATE MEMORIAL 41, (2001 Legislative Session) December 2002.*

This Fiscal Impact Report excerpts directly from the above mentioned reports.

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee (HJC) amendment makes two substantive changes. The first revision further clarifies that the PRC regulatory action should balance the interests of the public, consumers and investors. The second revision clarifies that consultation between Commissioners' staff and a party to a case may occur pursuant to the PRC rulemaking authority.

Synopsis of Senate Floor Amendment

The Senate Floor Amendment # 1 simply cleans up the language. The first deletion eliminates redundant wording, "fulfill its responsibility to", that requires the PRC to balance consumer versus utility interests in its regulatory actions. The second and third items clarify that at least one Commissioner shall be present for oral arguments on a case before a hearing examiner.

Synopsis of Original Bill

The Senate Corporations and Transportation Committee (SCORC) substitute for Senate Bill 903 proposes three major amendments to the Public Regulation Commission (PRC) enabling act to provide more communication among all entities involved in rulemaking and adjudicatory hearings. A detail by section is provided below:

Section 1. Requires the staff of the Utility Division to testify for docketed cases before the Commission on how to balance the interests of consumer and investors. Prohibits ex-parte communication with any Commissioner, except as allowed under Section 8-8-17, which has been amended in this bill to allow for communication with Commissioner advisory staff.

Section 2. Adds a new section that requires at least one Commissioner be present at oral arguments before a hearing examiner, if requested by a party to the proceeding.

Section 3. Adds a new section to the Ex-parte Communication criteria that allows communication between a party to a proceeding and the Commission's advisory staff.

Significant Issues

The Public Regulation Commission (PRC) has a complex mix of policy-making, regulatory, judicial and administrative responsibilities for diverse industries essential to the economic health and future of New Mexico. In 2001, Senate Joint Memorial 41 passed the Legislature and requested the Legislative Council designate an interim committee to examine the organization, financing and performance of the Public Regulation Commission. The Legislative Council appointed the PRC subcommittee to meet during the 2001 and 2002 interim to address these issues.

The Public Regulation Commission (PRC) was created through a merger of the elected State Corporation Commission and the appointed Public Utility Commission. Despite this significant change, the public policy and regulatory issues involved in such a merger were never fully debated by the Legislature or the public. The subcommittee evaluated the ex-parte statute and recommended that no changes be made. The specific recommendation is provided below.

Ex-Parte Laws. The subcommittee examined the dual responsibilities of the PRC commissioners to make policy and serve a judicial role. The subcommittee recommends that ex-parte communications be addressed through training for the PRC commissioners, staff and intervenors to assure all parties are informed on acceptable practices. Ex-parte issues should also be addressed through more effective administrative policies and procedures. The PRC, regulated industries and consumer representatives did not make any specific recommendations for statutory changes to the ex-parte laws. The subcommittee does not recommend statutory changes at this time.

FISCAL IMPLICATIONS

The SCORC substitute does not carry an appropriation. Its enactment would not have a fiscal impact on the PRC.

ADMINISTRATIVE IMPLICATIONS

Increased communication between parties could improve processing of cases.

Several regulated utilities have testified to the LFC and other legislative committees about the length of time that it takes the PRC to act on and complete docketed cases. The LFC has recommended several performance measures with targets to focus attention on this issue of timeliness. These measures are shown below:

- Percent reduction in the number of water utility rate cases on the PRC docket: 25%
- Percent reduction in the number of docketed cases before the PRC: 25%

Improving the number of cases going through the PRC could actually make available more resources for larger more complex cases.

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